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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/873,337

06/05/2001

Olaf van der Lely

4140

7590

10/06/2003

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EXAMINER

WEEKS, GLORIA R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/873,337

Applicant(s)

VAN DER LELY, OLAF

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 77-120 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 77-87 and 89-91 is/are allowed.
- 6) ☒ Claim(s) 88, 92, 110, 112-117 and 120 is/are rejected.
- 7) ☒ Claim(s) 111, 118 and 119 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Response to Amendment***

1. This action is in response to Applicants' amendment received on June 20, 2003.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 88, 105-110, 112-117 and 120 are rejected under 35 U.S.C. 102(b) as being anticipated by Hannen (USPN 5,024,718).

With respect to claims 88, 105, 117, 120 Hannen discloses a method of wrapping a bale composed of an agricultural product which comprises the steps of completely wrapping the bale with a film so that the interior of the film is in substantially continuous contact with the agricultural product (column 1, lines 5-15), and applying identifying information to the film which relates to at least one characteristic consisting of at least one of the following characteristics: the extent of which the bale is wrapped with the film or the location of the bale (column 6, lines 29-35), or the number of layers of film on the bale.

Regarding claim 106, 107 and its limitations as stated above, Hannen discloses a method of wrapping a bale (27, 28) comprising controlling the applying of identifying information (19) to the film so that the information includes the number of revolutions the bale (27, 28) has been subjected to in order to place the identifying information (18) at the desired location (column 9, lines 23-32).

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With respect to claim 108 and its limitations as stated above, Hannen discloses a method of wrapping a bale wherein the identifying information (18) is applied to the film while the bale (27, 28) is relatively at rest (column 1, lines 5-15; column 7, lines 47-53).

In reference to claims 109, 110 and their limitations as stated above, Hannen discloses a method of wrapping a bale wherein the identifying information (18) is applied to the film by an ink-jet or electronic printer (column 6, lines 29-35).

In reference to claim 112 and its limitations as stated above, Hannen discloses a method of wrapping a bale wherein the identify information is on a self-adhesive label (18), the self-adhesive label fastening to the film of the bale (27, 28; column 7, lines 13-36).

Regarding claim 113 and its limitations as stated above, Hannen discloses a method of wrapping a bale wherein the identifying information is applied to the film by an adhesive which is not caused to adhere to the film until after a label having the adhesive thereon has been placed on the film (column 7, lines 13-36).

With respect to claim 114 and its limitations as stated above, Hannen discloses a method of wrapping a bale wherein the identifying information is pre-printed on a self-adhesive label (column 6, lines 29-35).

Regarding claim 115, 116 and their limitations as stated above, Hannen discloses a method of wrapping a bale wherein the identifying information is imprinted on labels (18) before being applied to the film (column 6, lines 29-35).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 92-96 and 98-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Pozo, Jr. (USPN 4,248,031) in view of Hannen (USPN 5,024,718).

In reference to claims 92 and 105, Del Pozo, Jr. discloses a device for wrapping bodies (88) with a film (90a), but does not disclose means for attaching a label or a print on of information on, at, in or below the film (90a) of the bale (88). Hannen teaches a device for attaching identification such as a label (18) or a print on, at, in or below the film covering the bale (27, 28; column 1, lines 5-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wrapping device of Del Pozo, Jr. to include the labeling device of Hannen since Hannen discloses the labeling device as a improvement to the art of applying information to wrapped bales (Hannen-column 1, lines 5-15).

Regarding claim 93 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the label (Hannen-18) comprises a self-adhesive label (Hannen-column 7, lines 13-36).

With respect to claim 94 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the label applying means (Hannen-7, 8) comprises a label dispensing unit (Hannen-19) and a pressing element (Hannen-10) for pressing the label (Hannen-18) against the film (Del Pozo, Jr.-90a).

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In reference to claim 95 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) which comprises a stand (Del Pozo, Jr.-94; Hannen-1, 24), the wrapping means and the label applying means (7, 8) being arranged on the stand (Del Pozo, Jr.-94; Hannen-1, 24), the label applying means being arranged on the stand in an articulating manner.

With respect to claim 96 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) which comprises a label applying means (Hannen-7, 8), but does not specifically disclose the film cutting-and clamping device. However, it would have been obvious at the time the invention was made to include a cutting and clamping means in the device of Del Pozo, Jr. in view of Hannen since it is well known in the art to cut and secure the film used to wrap a bale post wrapping a bale.

Regarding claim 98 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the label applying means (Hannen-7, 8) comprises a pressing element (Hannen-10) which presses the label (Hannen-18) against the surface of the film (Del Pozo, Jr.-90a) when the bale (Del Pozo, Jr.-88; Hannen-27, 28) when the bale is at least substantially wrapped with the film (Hannen-column 1, lines 5-15).

In reference to claim 99 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the label applying means comprises label imprinting means consisting of means for

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printing symbols, or marks or electronically captured data or any combination thereof (Hannen-column 6, lines 29-35).

Regarding claims 100-102 and their limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the label applying means comprises a mechanical or electronic pressing device (Hannen-column 3, lines 27-60).

Regarding claim 103 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the label applying means comprises control means for controlling the location that the label is applied to the film (Hannen-column 7, lines 43-53).

With respect to claim 104 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the wrapping means comprises a sensor that determines the extend that the bale (Del Pozo, Jr.-88; Hannen-27, 28) has been wrapped with the film (Del Pozo, Jr.-90a, column 5, lines 54-68, column 8, lines 37-59).

4. Claim 97 is rejected under 35 U.S.C. 103(a) as being unpatentable over Del Pozo, Jr. (USPN 4,248,031) in view of Hannen (USPN 5,024,718) as applied to claim 33 above, and further in view of Nakagawa et al. (USPN 6,370,839).

In reference to claim 97 and its limitations as stated above, the modified apparatus of Del Pozo, Jr. in view of Hannen discloses a device for wrapping a bale (Del Pozo, Jr.-88; Hannen-27, 28) wherein the applying of identifying information to the film being coordinated with the discharging of the bale (Del Pozo, Jr.-88; Hannen-27, 28) from the wrapping station (Hannen-

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column 1, lines 5-15, column 6, lines 45-56). Although Del Pozo, Jr. does not distinctly disclose a discharge means for the bale (Del Pozo, Jr.-88) from the support surface (Del Pozo, Jr.-72) that supports the bale (Del Pozo, Jr.-88) while being wrapped, it is inherent that there is a means provided to remove the bale (Del Pozo, Jr.-88) from the support surface ((Del Pozo, Jr.-72). This conclusion can be further supported by Nakagawa et al., who discloses a discharge means (102) used to discharge a bale from its location of wrapping.

***Allowable Subject Matter***

5. Claims 77-87 and 89-91 are allowed.
6. Claims 111, 118, 119 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed June 20, 2003 have been fully considered but they are not persuasive. In response to Applicant's argument that the materials being wrapped by the prior art cited are different from that which the Applicant claims, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed



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combination of primary and secondary references. *In re Nomiya*, 184 USPQ 601 (CCPA 1915). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures takes as a whole would suggest to one of ordinary skill in the art. *In re Bozek*, 163 USPQ 545 (CCPA, 1969.) In this case, Hannen clearly states that the label applying apparatus disclosed is intended to be used with known method and apparatus which consist of wrapped bulky objects (column 1, lines 5-15).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

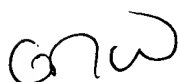
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

  
grw

Gloria R Weeks  
Examiner  
Art Unit 3721

  
Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700